

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

TORREVIO S. DUNCAN,	:	
Petitioner,	:	
v.	:	1:07-CV-218 (WLS)
RANDY TILLMAN, Warden,	:	
Respondent.	:	

ORDER

Before the Court is a Recommendation from United States Magistrate Richard L. Hodge filed on January 12, 2009. (Doc. 15). It is recommended that Respondent's Motion to Dismiss (Doc. 10) be granted. *Id.* Plaintiff filed a timely objection to the Report and Recommendation on January 22, 2009. (Doc. 16).

In the Recommendation, it was found that Petitioner failed to exhaust his available state court remedies. Petitioner's Objection is actually a brief articulating the reasons Petitioner believes he is entitled to Habeas relief. Therein, Petitioner requests that this Court waive his exhaustion requirements. The Court declines to grant such a waiver, as it would be clearly against federal precedent, as noted by Judge Hodge. *See Vasquez v. Hillery*, 474 U.S. 254, 257 (1986) (holding that a petitioner's claims are only considered exhausted after state court are given a meaningful opportunity to consider the petitioner's claims fully "without interference from the federal judiciary").

Therefore, upon full review and consideration upon the record, the Court finds that said Report and Recommendation (Doc. 15) should be, and hereby is, **ACCEPTED, ADOPTED** and made the Order of this Court for reason of the findings made and reasons stated therein, together with the findings made, reasons stated and conclusions reached herein. Accordingly, Respondent's Motion to Dismiss (Doc. 12) is **GRANTED** and Petitioner's Habeas Corpus Petition is **DISMISSED WITHOUT PREJUDICE**.

SO ORDERED, this 31st day of March, 2009.

/s/W. Louis Sands
THE HONORABLE W. LOUIS SANDS,
UNITED STATES DISTRICT COURT